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PATENT APPLICATION

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re the Application of

Xavier GIBERT et al.

Group Art Unit: 3728

Application No.: 10/527,022

Examiner: J. KAVANAUGH

Filed: April 8, 2005

Docket No.: 123070

For: FOOTWEAR ITEM COMPRISING BUILT-IN DYNAMIC ELEMENT

RESPONSE TO ELECTION OF SPECIES REQUIREMENT

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

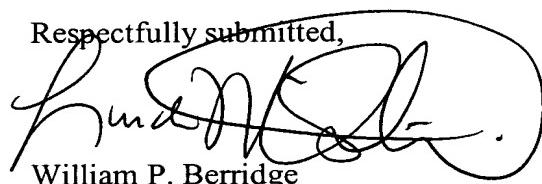
In reply to the September 14, 2006 Election of Species Requirement, Applicants provisionally elect Species II, Figures 8 and 9, with traverse. At least claims 1, 18, 20 and 21 read on the elected species, and at least claim 1 is generic to all species.

It is also respectfully submitted that the subject matter of all species is sufficiently related that a thorough search for the subject matter of any one species would encompass a search for the subject matter of the remaining species. Thus, it is respectfully submitted that the search and examination of the entire application could be made without serious burden.

See MPEP §803 in which it is stated that "if the search and examination of an entire application can be made without serious burden, the examiner must examine it on the merits, even though it includes claims to independent or distinct inventions" (emphasis added). It is respectfully submitted that this policy should apply in the present application in order to avoid unnecessary delay and expense to Applicants and duplicative examination by the Patent Office.

Thus, withdrawal of the Election of Species Requirement is respectfully requested.

Respectfully submitted,



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WPB:LMS/tls

Date: October 12, 2006

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